



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 27 2013

ASSISTANT ADMINISTRATOR
FOR ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

SUBJECT: No Action Assurance for the NPDES Stormwater Multi-Sector General Permit for Industrial Activities

FROM: Cynthia Giles

A handwritten signature in black ink, appearing to read "Cynthia Giles", is written over the printed name and extends slightly into the "TO:" field.

TO: Regional Administrators, Regions 1 - 10

This memorandum is to inform you of the pending lack of a Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (MSGP) and to alert you to the Environmental Protection Agency's (EPA or Agency) current position on our civil enforcement response to this situation. The current MSGP under the National Pollutant Discharge Elimination System (NPDES) program will expire at midnight on September 29, 2013. The affected EPA Regions have signed a Federal Register notice announcing the proposed reissuance of the MSGP; however, the permit will not be finalized until approximately six months after the expiration of the 2008 MSGP. While facilities with coverage under the 2008 MSGP (available at http://www.epa.gov/npdes/pubs/msgp2008_finalpermit.pdf) will automatically be granted an administrative continuance of permit coverage and are required to continue to comply with the 2008 MSGP after its expiration, any new facilities that begin discharging stormwater associated with industrial activity after September 29, 2013 in those areas where EPA is the NPDES permitting authority will not be able to obtain general permit coverage until a new permit is issued.

Because a new general permit has not yet been promulgated that will cover such new facilities during the period after expiration of the 2008 MSGP and the effective date of the new MSGP, I have determined that it is appropriate to exercise my enforcement discretion and issue this "no action assurance" to address this gap in coverage. Specifically, the Agency will not pursue administrative or civil judicial enforcement actions for lack of permit coverage against new facilities that begin discharging stormwater associated with industrial activity after September 29, 2013, provided that these newly-discharging facilities meet the following requirements:

1. Eligibility. For coverage under this no action assurance, any new facility must meet the 2008 MSGP eligibility criteria.
2. Prior Notification. Prior to the discharge of stormwater associated with industrial activity after September 29, 2013 by a new facility, such facility must notify the

appropriate EPA NPDES permitting authority of both their operator status and intention to operate in accordance with the 2008 MSGP.

3. Compliance. Any new facility must comply with all obligations of the 2008 MSGP. These obligations include but are not limited to (a) Stormwater Pollution Prevention Plan (SWPPP) development and implementation, (b) proper installation and maintenance of best management practices, (c) stormwater discharge monitoring, (d) site inspections, (e) implementation of corrective action measures, and (f) any additional sector-specific requirements outlined in Part 8 of the 2008 MSGP. Any new facility must also submit the reports required pursuant to Part 7 of the 2008 MSGP directly to the appropriate EPA NPDES permitting authority.

This no action assurance does not apply to criminal violations or to situations where egregious circumstances exist which may cause serious harm or which may present an imminent and substantial endangerment to public health or the environment, or where no best management practices are in place to protect public health or the environment. The Agency also reserves the right, at any time, to exercise its discretion to address a specific discharge should circumstances warrant.

This no action assurance approach for new facilities that begin discharging stormwater associated with industrial activity after September 29, 2013 will terminate on March 30, 2014, or 30 days after the issuance of a new general permit, whichever comes first. EPA also reserves the right to withdraw or revise this no action assurance at any time. If you have any questions about this matter, please contact Mark Pollins, Director of the Water Enforcement Division, at (202) 564-4001.